

KEITH COLE

v.

BRIAN COLLIER

United States Courts
Southern District of Texas
FILED

NOV 20 2017

David J. Bradley, Clerk of Court

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT
OF TEXAS, HOUSTON DIVISION

Jewish Class Members Original Motion To Waive All Rights and Privileges Associated with
Keith Cole vs. Brian Collier Lawsuit

COMES NOW, the Jewish Class Members and files this Motion To Waive all Rights associated with the Keith Cole vs. Brian Collier suit.

In support hereof, Jewish Class Members show the following:

1. History of Jewish Enhanced Program (Civil Action No. 3:07-cv-00574)
Based on the federal civil action suit of *Moussazadeh v. TDCJ*, there was ordered, a designated unit where kosher meals could be served, and others. An "MAC" Stringfellow Unit was selected to house the Jewish Enhanced Program with a kosher kitchen in 2007, which stated that Jewish Offenders approved to be in this said program would be able to enjoy the rights and privileges in religious studies, religion, holiday observances, and traditional customs associated with the Jewish religion while still being allowed to participate in general offender programming such as College, Craft Shop, Law Library, recreation three times a day when permitted by security and other program activities.
2. Leblanc Units chow hall and kitchen are in conflict with the cleanliness required to provide and serve kosher meals. Leblanc Unit chow hall is unsanitary and unsafe caused by the large number of various birds nesting inside and flying around the chow hall during and after the Jewish Class Members are being fed. These impermissible circumstances unreasonably exposes Jewish Class Members, general population and TDCJ staff alike to substantial risk of harm through the spread of infectious diseases and other health problems such as but not limited to lice, mites, MESA and Legionnaire disease. Further the longstanding and deplorable conditions that exist inside Leblanc Unit chow hall not only is depriving class members assigned here of the basic need of rudimentary sanitation and food safety, but it evinces the deliberate indifference of prison officials here and TDCJ's headquarters who are responsible for the operations and management of food service department at the Leblanc unit, yet TDCJ has not taken any remedial action to address these violations that impact the serving and eating of kosher meals.

3. Comparable Meals per Texas Government Code 501.003 have not been served to Jewish Class Members in over sixty (60) days and no food health citation will conclude that consumption of MRE prepackaged meals are in any way healthy nor does it fit the state regulated portions prescribed by ADA. No attempt has been made to completely separate Jewish Class Members food from non-kosher foods and product items, which is a requirement for kosher meals to be served. Transporting kosher food that has been warmed through a non-kosher kitchen would then therefore render kosher meals unkosher.
4. There are no Jewish volunteers in close proximity to assist in religious programming (Administrative Decision 7-30 TDCJ) in Beaumont, Texas as opposed to multiple volunteers at the original designated unit at AM "MAC" Stringfellow Unit.
5. Jewish Class Members do not have access to a Jewish religious leader due to program unit decision by unit chaplaincy of Leblanc who has restricted contacting a religious figure in times of crisis as such stated.
6. Jewish Class Members are prohibited from adequately using religious material objects. (i.e. Tifillin) and this is due to time sensitivities which are not being recognized.
7. Morning prayer services which is another prerequisite of Jewish Class Members who are observant, and time of one hour and thirty minutes has been reduced to thirty minutes which makes it impossible to prepare and then hold religious prayer services.
8. The Jewish library located on AM "MAC" Stringfellow Unit which assists in providing all the religious materials required for study, observances of certain holiday rituals and general education has been withheld from Jewish Class Members and no attempt has been made to provide those religious materials needed to conduct and practice Jewish Class Members religion.

9. Jewish Class Members have been restricted from access to courts (Texas Penal Code 36.05 violation) by not allowing legal visits with other Jewish Class Members to try and mitigate the circumstances surrounding the violations stated, which at this point exceed rational standards to repair other than moving Jewish Class Members back to the Jewish designated Enhanced unit program at MAC Strangefellow.
10. Jewish Class Members have been deprived of recreation (3) three times a day in hope to alleviate some of the pressures related to the current situation of being neglected of religious rights and freedoms.

Jewish Class Members THEREFORE, request that any and all rights be waived associated with the Keith Cole v. Brian Collier lawsuit. If it is Jewish Class Members request that religious freedoms be restored (Texas Religious Freedom Restoration Act-TRFRA) and that Jewish Class Members who forego their rights do this suit be transferred back to the AM "MAC" Strangefellow unit because Jewish Class Members rights are being abrogated under the current conditions at the Richard P. Leblanc unit.

MOREOVER, JEWISH CLASS MEMBERS strongly feel that observance of their religious rights is of greater importance to each of them than any rights, privileges and or benefits that are or will be derived from involvement in this suit.

These, the following are the names and TDCJ-ID numbers of the Jewish Class Members requesting the waiver:

Faustino Ybarra Fajardo #7054455
David Rosenblum #1975879
Cohen David S #2087050
Mark Brotman #2017934
Michael Goldstein #751521
Agustin Rodriguez #692901
Samuel Solomon #590873
Boris Mogilevich #1436874
Mark Dale #1164756

Howard Taitel #1896488
Samuel Klemes #691933
Charles Taft #603685
Mark Ellman #1571909
Norman Peterman #525011
Abbie Silvers #71948517
David J. Gold #691938
David Delin Gold #1560462
William Gary Holloman #99985

Respectfully Submitted for filing on this the

day of November, 2017